



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 221103-0231]

RTID 0648-XC422

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2023 Bluefish Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the 2023 Atlantic bluefish fishery, as recommended by the Mid-Atlantic Fishery Management Council. This action is necessary to establish allowable harvest levels for the stock that will prevent overfishing and promote rebuilding, using the best scientific information available. This rule is intended to inform the public of the proposed fishery specifications and provide an opportunity for comment on the proposed action.

DATES: Comments must be received by *[insert date 15 days after date of publication in the **FEDERAL REGISTER**]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0102, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to <https://www.regulations.gov>, and enter “NOAA-NMFS-2022-0102” in the Search box;
2. Click the “Comment” icon, complete the required fields; and

3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). If you are unable to submit your comment through www.regulations.gov, contact Cynthia Ferrio, Fishery Policy Analyst, Cynthia.Ferrio@noaa.gov.

Copies of the Supplemental Information Report (SIR) and other supporting documents for this action are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at <https://www.mafmc.org/action-archive>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Policy Analyst, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) jointly manage the Atlantic Bluefish Fishery Management Plan (FMP). The FMP requires the specification of annual regulatory limits for up to three years at a time, including: an acceptable biological catch (ABC), commercial and recreational annual catch limits (ACL), commercial and recreational annual catch targets (ACT), a commercial quota, a recreational harvest limit

(RHL), and other management measures. This action proposes adjusted bluefish specifications for the 2023 fishing year, based on Council and Commission recommendations.

The bluefish fishery is operating under multi-year specifications for fishing years 2022 and 2023 (87 FR 5739; February 2, 2022), which were based on a 2021 assessment update and Amendment 7 to the Bluefish FMP (86 FR 66977; November 24, 2021). Upon review of a 2022 data update and recent catch information, the Council's Scientific and Statistical Committee (SSC) and the Council's Bluefish Monitoring Committee agreed that no changes are necessary to the previously projected ABC, subsequent ACLs and ACTs, or any limits in the commercial sector. Prior to two adjustments described below, these 2023 specifications would have resulted in a 21-percent increase to the projected commercial quota and a 59-percent increase to the projected RHL. However, the 2022 data update indicated that the initial projection of recreational discards (4.19 million lb, 1,901 mt) did not fully account for expected discards, so the Monitoring Committee recommended an adjustment to the recreational total allowable landings (TAL) to account for higher than expected discards (6.64 million lb, 3,012 mt). There was also a 5.59 million-lb (2,536-mt) overage of the fishery ACL caused by recreational catch in 2021. Because the bluefish fishery is overfished, the accountability measure (AM) required by the FMP at 50 CFR 648.163(d)(1) is a pound-for-pound payback of the overage against the soonest possible year's recreational ACT as a single-year adjustment. The 2021 overage would be applied to the 2023 specifications in this action. No changes were recommended to recreational management measures because the adjusted RHL remains slightly higher than the current RHL in 2022, and there was no compelling reason found to change existing measures.

The Council and the Commission's Bluefish Management Board (Board) approved bluefish catch specifications for fishing year 2023 at a joint meeting in August

2022, as recommended by the SSC and Monitoring Committee. The Council and Board did not recommend changes to any regulations in place for bluefish. Therefore, all other commercial and recreational management measures would remain unchanged for the 2023 fishing year.

Proposed Specifications

This action proposes the Council's recommendations for 2023 bluefish catch specifications, which are consistent with the recommendations of the SSC and Monitoring Committee (Table 1). Although ACLs in both the commercial and recreational sectors would still increase by 21 percent as projected, the proposed RHL is adjusted and would only increase 1.6 percent from 2022, rather than 59 percent as originally projected.

Table 1 -- Comparison of Current 2022, Previously Projected 2023, and Proposed Adjusted 2023 Bluefish Specifications*

	Current 2022		Projected 2023		Proposed 2023	
	Million lb	Metric tons	Million lb	Metric tons	Million lb	Metric tons
Overfishing Limit	40.56	18,399	45.17	20,490	45.17	20,490
ABC	25.26	11,460	30.62	13,890	30.62	13,890
Commercial ACL = Commercial ACT	3.54	1,604	4.29	1,945	4.29	1,945
Recreational ACL = Recreational ACT	21.73	9,856	26.34	11,945	26.34	11,945
Recreational AM	3.65	1,656	0	0	5.59	2,536
Recreational Discards	4.19	1,901	4.19	1,901	6.64	3,012
Commercial TAL	3.54	1,604	4.29	1,945	4.29	1,945
Recreational TAL	13.89	6,298	22.14	10,044	14.11	6,400
Sector Transfer	0	0	0	0	0	0
Commercial Quota	3.54	1,604	4.29	1,945	4.29	1,945
RHL	13.89	6,298	22.14	10,044	14.11	6,400

*Specifications are derived from the ABC in metric tons (mt). When values are converted to millions of pounds the numbers may slightly shift due to rounding. The conversion factor used is 1 mt = 2204.6226 lb.

The coastwide commercial quota is allocated to coastal states from Maine to Florida based on percent shares specified in the FMP. These proposed state allocations for 2023 (Table 2) are unchanged from what was previously projected, as this action makes no changes to the commercial sector or the final coastwide commercial quota. In

addition, no states exceeded their allocated quota in 2021, or are projected to do so in 2022; therefore, no AMs for the commercial fishery are required for the 2023 fishing year based on the data available at this time.

Table 2 -- Proposed 2023 Bluefish State Commercial Quota Allocations

State	Percent Share	Quota (lb)	Quota (kg)
Maine	0.51	21,807	9,892
New Hampshire	0.36	15,331	6,954
Massachusetts	7.69	329,578	149,494
Rhode Island	7.61	326,165	147,946
Connecticut	1.22	52,094	23,629
New York	13.06	560,031	254,026
New Jersey	14.54	623,295	282,722
Delaware	1.48	63,572	28,836
Maryland	2.69	115,409	52,349
Virginia	10.16	435,625	197,596
North Carolina	32.05	1,374,077	623,271
South Carolina	0.05	2,344	1,063
Georgia	0.04	1,544	700
Florida	8.55	366,585	166,280
Total	100.01	4,287,109	1,944,600

No changes were recommended to recreational management measures as a part of these specifications. Therefore, all management measures, including the recreational daily bag limit of three fish per person for private anglers and five fish per person for for-hire (charter/party) vessels, would remain unchanged for 2023.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under E.O. 12866 because it contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The Councils conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with a SIR. There are no proposed regulatory changes in this bluefish action, so none are considered in the evaluation. The proposed action would implement the previously projected 2023 bluefish specifications, with an adjusted RHL to account for a recreational overage in 2021 and updated recreational discard data. Compared to the 2022 specifications, the coastwide commercial quota would increase 21 percent to 4.29 million lb (1,945 mt), and the RHL would increase 1.6 percent to 14.11 million lb (6,400 mt).

This proposed action would affect entities that hold federal for-hire (party/charter) recreational fishing permits for bluefish. Vessels may hold multiple fishing permits and some entities own multiple vessels and/or permits. According to the Northeast Fisheries Science Center commercial ownership database, 384 for-hire affiliate firms generated revenues from recreational fishing for various species during the 2019-2021 period (the most recent and complete data available). All of those business affiliates are categorized as small businesses, but it is not possible to derive the proportion of overall revenues for these for-hire firms resulting from fishing activities for an individual species such as bluefish. Nevertheless, given the popularity of bluefish as a recreational species in the Mid-Atlantic and New England, it is likely that revenues generated from bluefish may be somewhat important for many of these firms at certain times of the year. Although this action wouldn't affect the commercial sector beyond what was considered in the prior specifications action (providing an increase in fishing opportunity), 526 commercial fishing affiliate firms landed bluefish during this data period, with 521 of those

commercial entities categorized as small businesses, and 5 categorized as large businesses. Analyses indicate that bluefish revenues contributed approximately 0.46 percent of the total gross receipts for these small entities.

The proposed specifications are expected to provide similar fishing opportunities in the recreational sector when compared to the previous year, as the RHL is increasing by less than two percent, and because the management measures (bag limit, season, etc.) would remain unchanged. As noted in the prior specifications action, entities issued a commercial bluefish permit may experience a slight positive impact related to potentially higher landings throughout the course of the entire year. However, because state allocations are changing in accordance with Amendment 7, there may be different amounts of quota available regionally compared to past years. Often fishing behavior and short-term landings are based on market conditions, which are not expected to substantially change as a result of these specifications. As such, this proposed action is not expected to have an impact on the way the fishery operates or the revenue of small entities.

Overall, analyses indicate that the proposed specifications will not substantially change fishing effort, the risk of overfishing, prices/revenues, or fishery behavior. Therefore, the Council concluded, and NMFS agrees, that this action would not have a significant adverse impact on a substantial number of small businesses. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This action would not establish any new reporting or record-keeping requirements.

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 3, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

[FR Doc. 2022-24490 Filed: 11/14/2022 8:45 am; Publication Date: 11/15/2022]